

02-22095

CIV - LENARD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

MAGISTRATE JUDGE
SIMON

UNITED STATES OF AMERICA

Plaintiff,

vs.

ONE 1998 RANGE ROVER,
VEHICLE I.D. NO. SALPV144XWA398879,

Defendant.

VERIFIED COMPLAINT FOR FORFEITURE IN REM

Plaintiff, United States of America, by and through its undersigned United States Attorney for the Southern District of Florida, sues the Defendant and alleges as follows:

1. This is a civil forfeiture action in rem over which this Court has subject matter jurisdiction pursuant to Title 28, United States Code, Sections 1345, 1355 and 2461.
2. This Court has jurisdiction and venue over this action pursuant to 28 U.S.C. §§ 1345, 1355(a), (b)(1) and 1395 in that the defendant vehicle was seized in the Southern District of Florida and will remain within the District during the pendency of this action.
3. The defendant vehicle bears Vehicle I.D. No. SALPV144XWA398879 and Florida License No. BIGPIP.N.
4. The United States of America seeks the forfeiture of the defendant pursuant to Title

1/for

21, United States Code, Section 881(a)(4), as amended by the Civil Asset Forfeiture Reform Act of 2000. Title 21, United States Code, Section 881(a)(4) provides for forfeiture of all conveyances, including aircraft, vehicles, or vessels which are used or are intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of controlled substances which have been distributed or acquired in violation of the Controlled Substances Act, 21 U.S.C. § 801 et seq.

STATEMENT OF PROBABLE CAUSE

5. On or about November 20, 2001, William Perez (hereafter Perez) met with a confidential source to discuss the purchase and distribution of cocaine. Perez arrived at the meeting in a silver Range Rover bearing Florida License Tag "BIGPIPN" (hereafter the Range Rover).

6. On January 4, 2002, Perez met with the confidential source. Perez drove the Range Rover to the meeting. During this meeting the confidential source and Perez discussed the purchase/sale of cocaine and the confidential source showed Perez five kilograms of sham cocaine.

7. On January 25, 2002, Perez agreed to meet with the confidential source to pick up five kilograms of cocaine. Perez and his wife, Dayanara de la Cruz (hereafter de la Cruz), met with the confidential source at 8695 N.W. 13th Terrace, Miami, Fl. Perez and de la Cruz arrived at the meeting in the Range Rover. Perez exited the Range Rover and met with the confidential source while de la Cruz stayed in the Range Rover. Perez took possession of the bag containing the cocaine and returned to the Range Rover. Perez gave the bag containing the cocaine to de la Cruz who placed the bag on the back seat of the Range Rover. As agents approached the Range Rover to make the arrest, they observed de la Cruz reach to the back seat, grab the bag with the cocaine, open the passenger door and throw the bag out of the Range Rover. Perez and de la Cruz were arrested.

8. Perez and de la Cruz were indicted in the Southern District of Florida on February

7, 2002. Perez and de la Cruz were charged with conspiracy to possess with intent to distribute and with possession with intent to distribute five kilograms or more of a mixture and substance containing a detectable amount of cocaine in violation of 21 U.S.C. § 841(a)(1). The case is pending. See, *United States v. William Perez and Dayanara de la Cruz*; 0220094-Cr-King.

9. Title to the Range Rover is in the name of Dayanara de la Cruz.

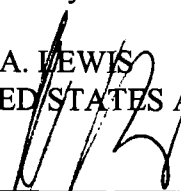
10. Based upon the foregoing, the defendant property was used to facilitate Perez and de la Cruz's unlawful drug activity and is therefore subject to forfeiture to the United States of America pursuant to 21 U.S.C. § 881(a)(4), as amended by the Civil Asset Forfeiture Reform Act of 2000.

WHEREFORE, Plaintiff, United States of America, requests the Court to declare the defendant property condemned and forfeit to the United States of America, pursuant to 21 U.S.C. § 881(a)(4), as amended by the Civil Asset Forfeiture Reform Act of 2000, and further requests the Court to direct any and all persons having any claim to the defendant property to file and serve their verified claims and answers as required by 18 U.S.C. § 983(a)(4) and the Supplemental Rules for Certain Admiralty and Maritime Claims, or suffer default thereof, together with such other and further relief as may be just and proper.

Respectfully submitted,

GUY A. LEWIS
UNITED STATES ATTORNEY

BY:



MICHELLE B. ALVAREZ
ASSISTANT UNITED STATES ATTORNEY
Fla. Bar No. 615617
99 N.E. Fourth Street
Miami, Florida 33132
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Fax: (305) 536-7599

Dated: July 18th, 2002.

VERIFICATION

I, Edward Reed, Special Agent for the Drug Enforcement Administration, declare under penalty of perjury as provided by Title 28, United States Code, Section 1746, that the foregoing Complaint for Forfeiture in rem is based upon information known and or imparted to me, and that the facts alleged therein are true and correct to the best of my knowledge and belief.

Date: 7-18-02



EDWARD REED, Special Agent
DRUG ENFORCEMENT ADMINISTRATION

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

One 1998 Range Rover, Vehicle ID/N
SALPV144XWA398879

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
AUSA Michelle B. Alvarez, U.S. Attorney's Office,
99 N.E. 4th Street, 7th Floor
Miami, Florida 33132
(305) 961-9088

ATTORNEYS (IF KNOWN)

MAGISTRATE JUDGE
SIMONTON

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input checked="" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
A REAL PROPERTY <input checked="" type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

The United States seeks the forfeiture of the defendant property pursuant to 21 U.S.C. § 881(a)(4) for violation of 21 U.S.C. § 841(a)(1).

LENGTH OF TRIAL
via 2 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____